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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,342	12/23/2003	Tomoyuki Iwabuchi	12732-198001 / US6845	4708
26171	7590	10/19/2005	EXAMINER	
FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			VU, DAVID HUNG	
			ART UNIT	PAPER NUMBER
			2828	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No. 10/743,342	Applicant(s) IWABUCHI ET AL.	
	Examiner David Vu	Art Unit 2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,7,8,11,12 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,7,16,19 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,8,11,17 and 20 is/are allowed.
- 6) ☒ Claim(s) 12,15,18 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/22/05, 5/10/04</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS, 7/30/04, 9/27/04, 12/23/03</u> . |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group II (claim 2 and the claims dependent therefrom) in the reply filed on 08/05/05 is acknowledged.
2. Claims 1 and the claims dependent therefrom are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 08/05/05.

Note that the amended claims resulted in claim 12 as being generic; thus, claim 12 and elected group II (claim 2 and the claims dependent therefrom) are being examined on the merit.

Drawings

3. The drawings are objected to because FIG.1, FIG.2, FIG.3 should be properly labeled as FIG1(A), FIG1(B), FIG2(A), FIG2(B), and FIG3(A), FIG3(B). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes

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made to the brief description of the several views of the drawings for consistency.

Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

5. The disclosure is objected to because of the following informalities:

Page 6, figures 1,2, and 3 should properly be figure 1(A)-1(B), 2(A)-2(B), 3(A)-3(B).

Appropriate correction is required.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double

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patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 12, 15, 18, and 21 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4, 7, 14-17, 23-28 of U.S. Pub No 2004/0263056. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are basically directed to similar features. For example, the semiconductor element, thin film transistor, MOS transistor, organic transistor or a diode in claims 1 and 23 of U.S. Pub No 2004/0263056 are the same as the switching element recited in claim 12 of the instant application.

Regarding claim 20, cellular phone with a light emitting device is very well known. Thus, it would have been obvious to one having ordinary skill in the art to have employed a light emitting device in combination with the cell phone; thus, lighting would have been provided to the display and keypad.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

8. Claims 2, 8, 11, 17, and 20 are allowed.

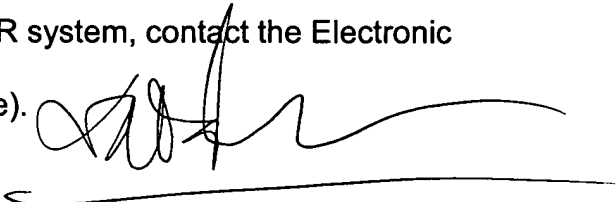
Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents by Childs and Osame et al are cited as showing light emitting devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Vu whose telephone number is (571) 272-1831. The examiner can normally be reached on M-F 8am-430pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Vu
Primary Examiner
Art Unit 2828

dv